



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Cybernetics Leadership Center--Request for
Reconsideration

File: B-233496.3

Date: May 12, 1989

DIGEST

Request for reconsideration is denied where protester only reiterates previously rejected arguments.

DECISION

Cybernetics Leadership Center requests reconsideration of our dismissals of its protest and subsequent request for reconsideration concerning a management development training program contract with the Naval Air Force and Naval Surface Force, U.S. Pacific Fleet, which was awarded to Americas, Inc., under request for proposals (RFP) No. N00123-87-R-5392, issued by the Naval Regional Contracting Center in San Diego, California.

We deny the request for reconsideration.

Cybernetics protested originally to our Office on November 7, 1988, that it was the low offeror, the solicitation was ambiguous, that the basis for the cost and technical evaluations were improper and that the awardee was nonresponsible. After considering each of these allegations, we dismissed Cybernetics' challenge to the Navy's affirmative determination of Americas' responsibility as not reviewable under section 21.3(m)(5) of our Bid Protest Regulations and dismissed the other allegations as untimely under section 21.2(a)(1), on November 9, 1988. 4 C.F.R. § 21.3(m)(5)-(2)(a)(1) (1988). Cybernetics filed a request for reconsideration on December 23, 1988, which we dismissed as untimely under section 21.12(b) of our Regulations, on December 28, because it was not filed within 10 working days. 4 C.F.R. § 21.12(b). Since both of these dismissals were summary, we will expand upon our previous responses to the protester's contentions at this time for the purpose of clarification.

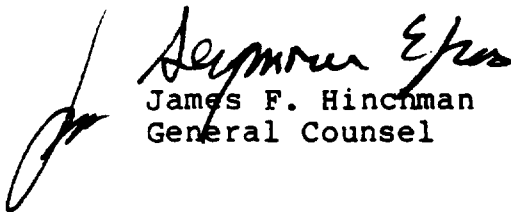
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Our Office will not consider a protest of an agency's affirmative determination of responsibility under our Bid Protest Regulations, absent a showing of possible fraud or bad faith on the part of procurement officials or an allegation that definitive responsibility criteria were not applied. 4 C.F.R. § 21.3(m)(5); Advance Gear & Machine Corp., B-228002, Nov. 25, 1987, 87-2 CPD ¶ 519. Cybernetics' disagreement with the Navy's affirmative determination of Americas' responsibility failed to meet either test.

Cybernetics also protested that the solicitation contained ambiguous and unclear time parameters which made the determination of the lowest cost proposal impossible and that the technical evaluation should not have been conducted using an "acceptable/unacceptable" format but rather a "greatest value analysis". Both of these bases of protest were apparent from a review of the solicitation. An objection to proposal evaluation criteria must be made also before the RFP's closing date. Speco Corp., B-232553, Sept. 28, 1988, 88-2 CPD ¶ 297; 4 C.F.R. § 21.2(a)(1).

Any request for reconsideration must either identify errors of fact or law in the prior proceedings, or present new evidence warranting modification or reversal of the previous decision. Multi Services Assistance, Inc.--Reconsideration, B-232082.2, Nov. 23, 1988, 88-2 CPD ¶ 508. The protester's reconsideration request only repeats earlier contentions.

The request for reconsideration is denied.



James F. Hinchman
General Counsel